LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6938
BILL NUMBER: SB 569

NOTE PREPARED: Jan 20, 2015
BILL AMENDED:

SUBJECT: The Reliable, Affordable, and Safe Power Act.

FIRST AUTHOR: Sen. Schneider
FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X **GENERAL**
X **DEDICATED**
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill provides that, in response to the federal Environmental Protection Agency Clean Power Plan regulatory activity:

(1) the Governor and Attorney General shall take appropriate steps to protect the state's sovereignty and police power authority in light of the designed federalism under the federal Clean Air Act;
(2) the Indiana Department of Environmental Management (IDEM) may examine the implications of preparing and implementing proposed regulations, but may not prepare or implement a state implementation plan until completion of judicial review concerning the legality of regulations under the federal Clean Air Act for existing power plants has been fully resolved at law;
(3) the Indiana Utility Regulatory Commission (IURC) may not allow electric generating units to be retired prior to their engineering lifetime if the unit is necessary to maintain the grid reliability specified by the Federal Energy Regulatory Commission in its reliability standards.

The bill requires electric generating units in existence on July 1, 2015, be operated in accordance with their design parameters and in a manner that ensures operation consonant with the initial design life of the unit at the time of its IURC approval, and may not allow electric generating units to be retired prior to their engineering lifetime unless the owners of the units have fully recouped the cost of construction and financing, the replacement generation results in lower costs to consumers, and there is sufficient replacement capacity to meet dispatchable capacity of the unit to be retired.

Effective Date: July 1, 2015.

Explanation of State Expenditures: *Indiana Department of Environmental Management (IDEM)*: The provision in the bill concerning the preparation and implementation of a state implementation plan (SIP) should not have an impact on IDEM. Currently, IDEM is not actively developing a SIP addressing the regulation of greenhouse gases for existing power plants under Section 111(d) of the federal Clean Air Act. IDEM is waiting on a final rule from the U.S. EPA which is expected during the summer or fall of 2015.

Indiana Utility Regulatory Commission (IURC): The bill requires the IURC to condition decisions related to electricity generation and distribution on lease cost proposals that comply with federal regulations and the SIP. Reviewing the reasonableness of compliance costs – including the eventual retirement of generating units and their replacement with other resources – would be consistent with the IURC's traditional regulatory practices.

The bill also has provisions regarding the IURC requiring that electric generating units in existence on July 1, 2015, to continue to operate. The IURC does not have the authority to require a private enterprise to operate a unit.

<u>*Additional Information*</u> - The decision to retire a coal-fired power plant can be motivated by a combination of the following: the age of the plant; the projected relatively low cost of natural gas; and the declining cost of alternatives to replace retiring coal-fired plants. Coal units usually retire at an age of 50 to 60 years because they become too expensive to operate going forward. Generally, the decision to retire a unit does not depend on whether the unit and associated environmental compliance equipment have been fully depreciated.

Utilities must notify the Regional Transmission Organization (RTO) if they plan to retire a unit. The RTO conducts an analysis to determine if the retirement of the facility will result in reliability issues for the transmission system. If there are anticipated reliability problems, the RTO considers the ability to build new transmission or implement other measures to adequately address the problem. The RTO also examines how much time will be required to develop alternatives to resolve the reliability problems. The RTO can contract with the owners of the generation facility to urge them to keep it operating until the alternative fixes for the reliability problem are in place.

<u>Explanation of State Revenues:</u> <u>*Summary*</u> - The bill requires the IURC to cap nonfuel rate increases associated with greenhouse gas regulations at 1.5%, which would affect utility rates. The impact would depend upon the duration of the application of the 1.5% cap. Also, limiting nonfuel increases without limiting the associated fuel or purchase of power could distort resource decisions and possibly result in higher costs assigned to ratepayers.

To the extent that utility rates are impacted as a result of this bill, there could be a change in Utility Receipts Tax (URT), Utility Services Use Tax (USUT), and Sales Tax collections. The rate for both the URT and USUT is 1.4%. The URT is calculated on the gross receipts of all entities providing the retail sale of utility services in Indiana. The USUT is imposed on the retail consumption of utility services in Indiana. Both the URT and USUT are deposited in the state General Fund. Sales tax revenue is deposited in the state General Fund (98.848%), the Motor Vehicle Highway Account (1%), the Commuter Rail Service Fund (0.123%), and the Industrial Rail Service Fund (0.029%).

<u>Explanation of Local Expenditures:</u>

<u>Explanation of Local Revenues:</u> If utility rates are impacted as a result of this bill, there could be a change in local revenues to the extent that a local unit receives distributions from sales tax revenue.

State Agencies Affected: Governor; Attorney General; Indiana Department of Environmental Management; Indiana Utility Regulatory Commission.

Local Agencies Affected:

Information Sources: Keith Baugues, Indiana Department of Environmental Management; Andrew Mapes, Indiana Utility Regulatory Commission.

Fiscal Analyst: Jessica Harmon, 317-232-9854.